

Remarks

Reconsideration of this Application is respectfully requested. Applicant respectfully requests entry of the non-entered amendment mailed July 30, 2004. Additionally, the claims are further amended in the instant amendment.

In response to the Final Rejection mailed June 2, 2004 and the Advisory Action mailed August 24, 2004, amendments have been made to the claims, and editorial amendments have been made to the specification and drawings.

Upon entry of the foregoing amendment, claims 18-25, 28-33, 35-48 are pending in the application, with claims 18, 28, 35, 36 and 48 being the independent claims.

For the following reasons, it is submitted that the application is in condition for allowance, and allowance thereof is respectfully requested.

Rejections under 35 U.S.C. § 112

Claims 18-25, 28-33 and 35 stand rejected under 35 U.S.C. § 112, 2nd paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

In the Advisory Action, the Examiner stated “[t]he claims are still confusing and lack clarity,” but did not offer any suggestions for avoiding the alleged confusion or for improving the clarity of the claims. Applicant respectfully brings to the Examiner’s attention MPEP § 2173.02, which states:

[I]f the language used by applicant satisfies the statutory requirements of 35 U.S.C. 112, second paragraph, but the examiner merely wants to improve the clarity or precision of

the language used, the claim must not be rejected under 35 U.S.C. 112, second paragraph, rather, the examiner should suggest improved language to the applicant.

In the Final Rejection mailed June 2, 2004, the Examiner indicated at page 3, lines 1-9, how claims 18, 28, 30, and 35 might be made allowable, and Applicant made changes in the amendment filed July 30, 2004, which he believed would place the application in condition for allowance. However, the Examiner issued an Advisory Action indicating that the amendment would not be entered and stating only that the claims are still confusing and lack clarity. Applicant respectfully requests that the Examiner indicate why he believes the claims are confusing and lack clarity so that Applicant may make any necessary amendments.

Additionally, Applicant traverses the 112, 2nd paragraph, rejection stating that the claims are confusing and lack clarity. Referring to claim 18, Applicant directs the Examiner's attention to the following example of the invention described in the specification.

The preamble (lines 1-7 of the claim) is supported by FIG. 3, and FIG. 14 (see specification, pages 14-15, 17, and 24) describing transmission of a packet from an input terminal 1, through a group of optical nodes devices 2 that either, add, relay, or drop the packet, and output the packet to an output terminal 1.

Lines 8-11 of the claim are supported by FIG. 2 and pages 16-17 of the specification. FIG. 2 depicts the different functional elements of the node device 2, including the router 2A, the optical spatial switch 2C2, and the Node Control Function Part 2B. In this example, the Node Control Function Part 2B includes a Connection Information Response Function Part 2B3, and an Optical Path Setting Function Part 2B2, similar to the claimed invention.

Lines 12-15 are supported by FIG. 15 and pages 19-20. This figure depicts a first

through fourth node setting an optical path through node device 20 to avoid processing the packet in the router of node device 20.

Lines 16-24 are supported by pages 21-22 of the specification. These pages describe an example of the Connection Information Response Function Part 2B3 inquiring node connection information of adjacent nodes devices, and responding to inquiries from adjacent node devices with connection information.

Lines 25-28 are supported by FIG. 15 and pages 18-21 of the specification. These pages describe an example of the Optical Path Setting Function Part 2B2 setting the optical path through a node device without going through the router.

Accordingly, the above identified example of the claimed invention provides enablement and support for all of claim 18. One of ordinary skill in the art would understand the invention and the claim based on the above example, and would be able to make and use the claimed invention because of the enabling description. Therefore, Applicant submits that the claim in its present form meets the requirements of 35 U.S.C. §112, and believes that one of ordinary skill in the art would find the present claim clear and understandable.

Accordingly, claim 18 is believed to be in condition for allowance. Claims 19-25 are dependent from claim 18 and are also considered to be allowable because of their dependence on an allowable claim.

Analogously, independent claims 28 and 35 recite similar subject matter as claim 18 and find similar support within the specification. Claims 29-33 are dependent from claim 28 and are also considered to be allowable because of their dependence on an allowable claim.

Therefore, Applicant respectfully submits that claims 18-25, 28-33, and 35 are clear

and understandable in their present form, and that the rejection under 35 U.S.C. §112, second paragraph, should be withdrawn. Accordingly, claims 18-25, 28-33, and 35 are believed to be in condition for allowance and allowance thereof is respectfully requested.

In order to expedite prosecution of the Application, Applicant also requests that a personal interview be scheduled with the Examiner prior to examination so that the Applicant's attorney can fully understand the Examiner's reasons for finding the claims confusing and lacking clarity. With this information, it is anticipated that amendments can be made that will place the rejected claims in condition for allowance.

New Claims

New claims 36-48 have been added to the Application. Independent claims 36 and 48 have been added to describe additional embodiments of the invention. Examples of these claims are described in the specification on pages 22-26 and depicted in FIGS. 4-5. These claims meet the requirements of 35 U.S.C. §112 and are believed to be in condition for allowance. Claims 37-47 are dependent on claim 36 and thus are allowable because of their dependence on an allowable claim. Therefore, claims 36-48 are in condition for allowance and allowance thereof is respectfully requested.

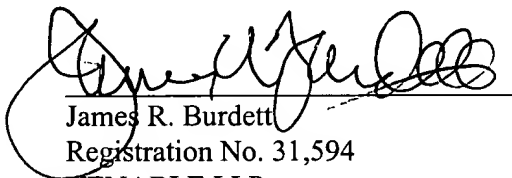
Conclusion

The arguments and claim amendments are believed to overcome the rejections under 35 U.S.C. §112 and it is therefore submitted that claims 18-25, 28-33 and 35-48 are in condition for allowance.

As previously stated, Applicant believes that a personal interview with the Examiner would help to expedite prosecution of the application. Accordingly, Applicant's attorney will call the Examiner shortly after filing the Request for Continued Examination for the purpose of arranging such an interview.

Respectfully submitted,

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Date


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